

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMAINE L. WILSON.

Plaintiff,

vs.

DOUGLAS COUNTY DEPARTMENT
OF CORRECTIONS AND WEXFORD
HEALTH SOURCES, INC.,

Defendants.

8:03cv70

AMENDMENT TO
THIRD AMENDED FINAL
PROGRESSION ORDER

This matter is before the court on filing no. 102, the plaintiff's Motion to Extend the Deadline to Disclose Expert Witnesses. In addition, because Chief Judge Joseph F. Bataillon will be issuing an Order in the near future directing the plaintiff to respond to specific aspects of the defendants' pending motions for summary judgment, he has directed that the trial and the final pretrial conference in this matter be rescheduled, as set forth below.

IT IS ORDERED:

1. **Disclosure of Expert Witnesses.** Filing no. 102 is granted, and the plaintiff's deadline for disclosure of expert witnesses is extended nunc pro tunc to **October 20, 2005** when the plaintiff served his disclosures.

2. **Deposition Deadline.** If either defendant requires an extension of the deposition deadline in order to depose the plaintiff's expert witness, leave is hereby granted. Any such deposition(s) shall be completed by **December 9, 2005**.

3. **Pretrial Disclosures:** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

A. Nonexpert Witnesses - On or before December 16, 2005: The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

B. Deposition Testimony and Discovery - On or before: December 16, 2005: 1) The portions of each deposition, designated by page and line, that it intends to offer and 2) each discovery response of another party it intends to offer. Such designations and any objections thereto shall also be included in the final pretrial conference order. See NECivR 16.2.

C. Trial Exhibits - On or before December 16, 2005: A list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits. The parties shall also designate on the list those exhibits it may offer only if the need arises.

D. Waiver of Objections: Any objections to the use of witnesses, deposition designations, discovery responses, or exhibits shall be listed in the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) shall be deemed waived, unless excused by the court for good cause shown.

E. Filing of Disclosures: The filing of pretrial disclosures required by Fed. R. Civ. P. 26(a)(3) shall be deemed filed at the time of the filing of the Order on Final Pretrial Conference in this matter.

4. Motions in Limine.

A. Daubert Motions. Any motion *in limine* challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules of Evidence shall be filed **on or before December 16, 2005**, in the absence of which any objection based upon said rule shall be

deemed waived. See *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999); *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993).

B. Any other motions *in limine* shall be filed not later than December 16, 2005.

5. **The Final Pretrial Conference** with the undersigned magistrate is set for **Friday, January 6, 2006 at 9:00 a.m.**, in chambers, Suite 2210, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the pretrial conference, all items as directed in NECivR 16.2. By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin at any time during the session indicated below.

7. **A Jury trial** is set to commence **at 8:30 a.m. on Monday, January 23, 2006**, in Courtroom No. 3, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska, before the **Honorable Joseph F. Bataillon, Chief Judge**.

DATED: November 8, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**